



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 19, 2021  
MOAHR Docket No.: 21-000265  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 15, 2021, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Jacob Frankmann, Assistance Payments Worker.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FAP recipient.
2. On October 5, 2020, the Department sent Petitioner a redetermination packet related to her FAP benefit case (Exhibit A, pp. 11-17). Petitioner was also advised that she had an interview scheduled on [REDACTED], 2020.
3. On November 2, 2020, the Department sent Petitioner a Notice of Missed Appointment (Exhibit A, p. 18).
4. Effective December 1, 2020, Petitioner's FAP benefit case closed (Exhibit A, p. 20).

5. On January 25, 2021, Petitioner submitted a request for hearing disputing the Department's actions.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner was an ongoing FAP recipient. On October 5, 2020, the Department sent Petitioner a redetermination packet. Petitioner was advised that the redetermination paperwork must be returned to the Department by October 25, 2020. Petitioner was also notified that she had an interview scheduled on [REDACTED] 2020.

The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 1. If a client does not begin the redetermination process, the benefit period will be allowed to expire. BAM 210, p. 1.

The Department presented Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The ECF revealed Petitioner did not return the redetermination. The Department also presented a Notice of Missed Appointment that was sent to Petitioner on November 2, 2020, advising her that she missed her redetermination interview. The Department stated that Petitioner's sister, [REDACTED], contacted the Department on November 30, 2020. Petitioner's sister was notified that she needed to submit the redetermination paperwork. The Department did not have any record of Petitioner contacting the Department regarding the redetermination.

At the hearing, Petitioner's AHR stated that Petitioner did not receive the redetermination packet. Petitioner did receive the Notice of Missed Appointment. Petitioner's AHR testified that Petitioner's sister contacted the Department on November 30, 2020. Petitioner's AHR stated that [REDACTED] informed the worker that neither she, nor Petitioner, received the redetermination packet. Petitioner's sister was notified that she could complete the redetermination online. Petitioner's AHR stated that Petitioner's sister informed her worker that neither she, nor Petitioner, were able to complete the redetermination online. The Department did not reissue Petitioner the redetermination by mail and the Department worker was unsure if he was notified that Petitioner was unable to complete the redetermination online.

The Department must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the Department. BAM 105 (October 2016), p. 15. Petitioner's sister contacted Petitioner's worker prior to the closure of her FAP benefit case. Petitioner's sister advised the worker that Petitioner did not receive the redetermination and that Petitioner was unable to complete the redetermination online. The Department should have assisted the client by reissuing the packet by mail. Therefore, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP benefit case.

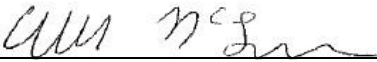
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FAP eligibility as of December 1, 2020, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and

3. Notify Petitioner of its decision in writing.

EM/jem

  
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**Ellen McLemore**  
Administrative Law Judge  
for Elizabeth Hertel, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Macomb-20-Hearings  
BSC4-HearingDecsions  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner – Via USPS:**

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**Authorized Hearing Rep. – Via USPS:**

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